



OFFICE OF HOUSING

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, DC 20410-8000

JUN 18 2010

TO: All Owners and Management Agents

SUBJECT: Tenant Participation in Multifamily Housing Projects 24 CFR Part 245

The Department of Housing and Urban Development's regulations governing tenant participation in multifamily housing projects are found at 24 CFR Part 245. These regulations reflect the Department's commitment to tenant participation, individually and through legitimate tenant organizations. We believe that tenant participation is an important element to maintaining sustainable projects and communities.

This letter highlights certain key features of Part 245 and serves as a reminder that compliance with these requirements is expected. By issuance of a Housing Notice currently being developed, the requirements of Part 245 will be enforced through the imposition of Civil Monetary Penalties. The Housing Notice will be developed with appropriate consultation and input from our stakeholders.

Properties covered by Part 245

24 CFR Part 245 applies to projects with an insured mortgage or a HUD-held previously insured mortgage assisted under Section 236, the Section 221(d)(3) BMIR Program, the Rent Supplement Program, or the Section 8 Loan Management Set-Aside Program following conversion to such assistance from the Rent Supplement Program Assistance. Part 245 also covers formerly HUD-held properties that were previously assisted under the Section 236, 221(d)(3), Rent Supplement or Section 8 LMSA programs that have been sold by the Secretary with a mortgage insured or held by HUD with an agreement to maintain the low and moderate income character of the building.

The Department amended Part 245 on April 24, 2003 to extend coverage to non-HUD insured properties that receive assistance under the Section 236 or Rent Supplement programs administered by state or local agencies.

Right of tenants to organize

Part 245.100 provides tenants of a covered multifamily housing project the right to establish and operate a tenant organization for the purpose of addressing issues related to their living environment as well as activities related to housing and community development.

Legitimate tenant organizations

Part 245.110 defines a legitimate tenant organization as one that has been established for the purposes stated in Part 245.100 and meets regularly, operates democratically, is representative of all residents in the development, and is completely independent of owners, management, and their representatives. The definition covers "organizing committees" newly formed by residents, and does not require specific structures, written by-laws, elections, or resident petitions for a group to be

considered legitimate.

Protected activities

Part 245.115 identifies specific activities that owners and agents must allow tenants and tenant organizers to conduct related to establishment or operation of a tenant organizations. These activities include distributing leaflets in lobby and common areas, under tenants' doors; initiating contact with tenants; conducting door-to-door surveys and information dissemination about the organization; posting information on bulletin boards; and convening tenant organization meetings on-site in a manner that is fully independent of management representatives. Tenants also have the right to formulate responses to owners' requests for rent increases, conversion from project paid utilities to tenant-paid utilities; converting units to non-residential use or condominiums; capital additions; and loan prepayment. In order to preserve the independence of tenant organizations, the regulations specify that management representatives may not attend tenant meetings unless specifically invited by the tenant organization. Owners and agents are prohibited from requiring tenants or tenant organizers from obtaining prior permission before engaging in activities protected under Part 245.115.

Meeting space

Part 245.120 requires owners and agents of covered projects to reasonably make available the use of any community room or other available space appropriate for meetings when requested by tenants or the tenant organization for activities related to the operation or establishment of the tenant organization or to collectively address issues related to their living environment. These meetings must be accessible to persons with disabilities, unless this is impractical for reasons beyond the organization's control. An owner may charge a reasonable fee, approved by HUD, as may normally be imposed for use of such facilities in accordance with procedures prescribed by HUD. An owner may elect to waive this fee.

Tenant organizers

Part 245.125 defines a "tenant organizer" as a tenant or non-tenant who assists tenants in establishing and operating a tenant organization, and who is not an employee or representative of current or prospective owners, managers or their agents. Owners and agents must allow tenant organizers to assist tenants in establishing and operating tenant organizations.

A non-tenant, tenant organizer must be accompanied by a tenant while on the property of the multifamily housing project only in cases where the project has a consistently enforced, written policy against canvassing (unless the organizer represents a nonprofit organization directly funded by HUD to provide eligible education and outreach assistance to tenants, in which case this requirement does not apply). Where there is such a non-canvassing policy, non-tenant organizers must be afforded the same rights and privileges as other uninvited outside parties; where there is no such policy against canvassing, the project shall be treated as if it has a policy favoring canvassing.

Impediments to Residents or Resident Associations Attempting to Exercise Their Rights

Chapter 4 of Handbook 4381.5 (Rev. 2) identifies specific actions by owners/and agents that constitute impediments to residents or resident associations attempt to exercise their rights. These include:

Unreasonably denying accessible meeting space to residents; repeatedly sending management representatives to resident meetings which residents have requested management not to attend; evicting, threatening to evict, withholding entitlements, or otherwise penalizing residents for organizing or asserting their rights; attempting to adversely influence resident leaders by offering individual inducements such as employment, preferential transfers, rent abatements, favored repairs, or other benefits not available to all residents in the development; attempting to form a competing resident organization under the control of the management company or the owner; sexually harassing residents.

Enforcement

Part 245.135 states that owners, agents, and principals or affiliates who violate any provision of Part 245 may be liable for sanction, including, pursuant to 24 CFR Part 30, the imposition of Civil Monetary Penalties, for a multifamily property of five or more units covered by Part 245 that also has a mortgage insured, co-insured or held by HUD or a loan under Section 202 or 811.

The Department is currently developing guidance and instructions to field staff to implement the imposition of Civil Monetary Penalties for violation of these regulations. This guidance will be provided to owners as a Housing Notice with appropriate consultation and input from our stakeholders.

Owners and agents many contact their local HUD Program Center with questions. HUD Handbook 4381.5 and 24 CFR Part 245 is accessible at www.hud.gov.

Thank you for your partnership and participation in HUD's programs, and for your attention to these important requirements.

Sincerely,



Carol J. Galante
Deputy Assistant Secretary for
Multifamily Housing Programs